

## **LICENSING LIVESTOCK DEALERS**

### **Act 284 of 1937**

AN ACT to prevent the spread of infectious and contagious diseases of livestock; to require persons, associations, partnerships and corporations engaged in the buying, receiving, selling, transporting, exchanging, negotiating, or soliciting sale, resale, exchange or transportation of livestock to be licensed and bonded by the department of agriculture; to keep a producers' proceeds account; to provide for the refusal, suspension or revocation of such licenses; to provide for weighmasters; to provide for the inspection and disinfection of yards, premises and vehicles; and to provide penalties for the violation of this act.

**History:** 1937, Act 284, Imd. Eff. July 23, 1937;—Am. 1945, Act 237, Eff. Sept. 6, 1945;—Am. 1957, Act 290, Eff. Sept. 27, 1957.

*The People of the State of Michigan enact:*

#### **287.121 Livestock dealer license; definitions.**

Sec. 1. (a) "Department" as used in this act shall mean the Michigan state department of agriculture.

(b) "Director" as used in this act means the director of the department of agriculture.

(c) "Animals" or "livestock" as used in this act shall mean and include horses, ponies, mules, cattle, calves, swine, sheep and goats.

(d) "Dealer" or "broker" as used in this act shall mean any person, copartnership, association or corporation engaged in the business of buying, receiving, selling, exchanging, transporting, negotiating, or soliciting sale, resale, exchange, transportation or transfer of any such animals, but it shall not be construed to include: (1) any railroad or air line transporting animals either interstate or intrastate; (2) any person, association, copartnership or corporation who or which, by dispersal sale, is permanently discontinuing the business of farming, dairying, breeding, or feeding animals; (3) any person, association, copartnership or corporation that sells livestock which has been raised on the premises of such person, association, copartnership or corporation; (4) any butcher, packer or processor to whom animals are delivered and used exclusively for slaughter, or that part of the business of a farmer which consists of buying or receiving animals for breeding, grazing and feeding purposes and the sale or disposal of such animals after the feeding or grazing period of not less than 21 days; (5) terminal livestock markets where agricultural research service of the United States department of agriculture veterinary inspection is daily maintained; (6) occasionally held consignment sales such as breed, 4-H or F.F.A. sales.

(e) "Agent" as used in this act shall mean any person, firm, association, copartnership or corporation buying, receiving, selling, exchanging, transporting, negotiating or soliciting sale, resale, exchange, transportation or transfer of any animals for or on behalf of any dealer or broker.

(f) "Livestock auction" as used in this act shall mean any livestock market where livestock is accepted on consignment and the auction method is used in the marketing of such livestock. A public auction of farm goods by a farmer is not included in this definition of a livestock auction.

(g) "Weighmaster" as used in this act shall mean any person registered under this act who weighs livestock at any livestock market licensed under this act.

**History:** 1937, Act 284, Imd. Eff. July 23, 1937;—Am. 1945, Act 237, Eff. Sept. 6, 1945;—CL 1948, 287.121;—Am. 1957, Act 290, Eff. Sept. 27, 1957.

#### **287.122 Licensing of dealers or brokers.**

Sec. 2. No dealer or broker shall engage in or carry on the business of buying, receiving, selling, exchanging, transporting, negotiating or soliciting the sale, resale, exchange, transportation or transfer of any animals within the state unless duly licensed and bonded as hereinafter provided. Such dealer or broker shall be responsible for acts performed or contracts made by any person or individual employed by said dealer or broker in buying, receiving, selling, exchanging, transporting, negotiating or soliciting sale, resale, exchange, transportation or transfer of livestock.

**History:** 1937, Act 284, Imd. Eff. July 23, 1937;—Am. 1945, Act 237, Eff. Sept. 6, 1945;—CL 1948, 287.122.

#### **287.123 Licensing of livestock dealer, broker, or agent; application; contents; fees; deposit of fines; weighmasters; receipt of completed application; issuance of license within certain time period; report; bond; license to transport required; producers' proceeds account; "completed application" defined.**

Sec. 3. (1) A person desiring to act as a dealer, broker, or agent shall file an application with the department for a license to engage in the business of dealer, broker, or agent. The application shall state the nature of the business, the mailing address of the applicant, and the mailing address at or from which the

business is to be conducted. If the applicant desires to operate a livestock yard where livestock is kept and sold at public or private sale, the application shall so state. The application may state additional information as requested by the director.

(2) Subject to subsection (7) and until September 30, 2012, the department shall charge and collect the following fees for initial and renewal license applications:

(a) Class I (livestock auction).....	\$ 400.00.
(b) Class II (collection point/buying station).....	\$ 250.00.
(c) Class III (horse auction).....	\$ 150.00.
(d) Class IV (dealer/broker/agent).....	\$ 50.00.

(3) Subject to subsection (7) and after September 30, 2012, the only fee the department shall charge and collect for the issuance and renewal of licenses under this section is a fee of \$5.00 for a dealer, broker, or agent license.

(4) The department shall deposit administrative and noncriminal fines received under this act and license or other administrative fees received under this section into the agriculture licensing and inspection fees fund created in section 9 of the insect pest and plant disease act, 1931 PA 189, MCL 286.209, to be used, pursuant to appropriation, by the director in administering and carrying out those duties required by law under this act.

(5) A licensee who buys or sells livestock by weight shall employ a registered weighmaster to do all the weighing. The duties, qualifications, and requirements for registration of weighmasters shall be established by the director by promulgation of a rule under section 9.

(6) Beginning July 23, 2004, the department shall issue an initial or renewal dealer, broker, agent, livestock auction, collecting point/buying station, and horse auction license not later than 90 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of the state of Michigan. If the application is considered incomplete by the department, the department shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 90-day period is tolled upon notification by the department of a deficiency until the date the requested information is received by the department. The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license.

(7) If the department fails to issue or deny a license within the time required by this section, the department shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. The failure to issue a license within the time required under this subsection does not allow the department to otherwise delay the processing of the application, and that application, upon completion, shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of the application based upon the fact that the license fee was refunded or discounted under this subsection.

(8) Beginning October 1, 2005, the director shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with agriculture issues. The director shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the department received and completed within the 90-day time period described in subsection (6).

(b) The number of applications denied.

(c) The number of applicants not issued a license within the 90-day time period and the amount of money returned to licensees and registrants under subsection (7).

(9) The application for that license and bond shall be submitted to the director on or before October 1 of each year. Each license issued under this section shall be for a period of 1 year commencing October 1 and ending the following September 30.

(10) Each dealer, broker, or agent operating or conducting a livestock auction shall file with his or her application for a license a surety bond effective during the period for which the license is issued. The surety bond shall be issued by a surety company registered in this state to indemnify persons from whom livestock is purchased or for whom livestock is sold or other security and in such amounts, form, and sufficiency as approved by the director. The amount of the bond shall be an amount equal to the amount of gross dollar volume of livestock business conducted during the average week of the previous licensing year by the applicant, but in no case less than \$1,500.00. If the average gross weekly livestock business conducted by the applicant during the previous licensing year was greater than \$25,000.00, the bond shall be increased above \$25,000.00, at the rate of \$1,000.00 for each \$5,000.00 or part thereof above \$25,000.00 on the average gross

dollar-volume of weekly livestock business conducted during the previous year. A licensee who owns or operates more than 1 livestock yard or livestock auction may file 1 bond in an amount determined by the formula described in this subsection. Any dealer, broker, or agent operating or conducting a livestock yard or livestock auction who has filed a surety bond for the livestock yard or livestock auction and indemnifies persons from whom livestock is purchased or for whom livestock is sold in accordance with the terms of any federal act is exempt from the bonding requirements of this subsection provided the bond is equivalent in amount to that which would be required by this act. The bond shall be for a dealer or broker and his or her agents in which the department is the obligee for the benefit and purpose of protecting all persons selling or consigning livestock to the licensed dealer, broker, or agent against the licensed dealer's, broker's, or agent's failure to pay amounts due on livestock purchased by or consigned to them.

(11) Each licensee shall keep records and shall furnish, upon request, information concerning his or her purchases and sales as may be required by the director for the purpose of establishing the amount of bond required under subsection (10). The director, in fixing the amount of the bond, shall take into consideration the dollar volume of livestock business and other information furnished by the dealer, broker, or his or her agent. If a dealer, broker, or agent did not operate a livestock auction the previous licensing year, the bond shall be for an amount as shall be established by the director after consideration of all information available on the probable weekly gross dollar volume of business to be conducted by the dealer, broker, or agent during the licensing year.

(12) If during any licensing year the bond filed by any licensee becomes less than required by this act because of an increase in gross dollar volume of livestock sales, the director may issue an order requiring the licensee to file an additional bond to cover the increase in gross dollar volume of livestock sales. Failure to comply with the orders of the director is grounds for suspension or revocation of license. A bond shall be conditioned upon the faithful performance of the licensee's duties as a dealer or broker and on the provisions of law relating to the purchase of livestock by the dealer or broker and for the payment by the dealer or broker of all livestock purchased by or consigned to the dealer or broker as a dealer or broker in livestock.

(13) A license issued under this section allows the holder to conduct the business of dealer or broker at or from the place named in the application. A legal entity engaged in the business of transporting livestock or negotiating or soliciting the transportation or transfer of livestock that is not engaged in the buying, selling, reselling, exchanging, negotiating, or soliciting the sale, resale, or exchange of livestock must obtain a license under this section but is not required to comply with bonding provisions of this section.

(14) A dealer, broker, or agent shall keep adequate records of the producers' proceeds account in compliance with section 3a and of all sales and purchases for a period of 5 years in the manner required by the director. The records shall be open to reasonable inspection by the department.

(15) A dealer, broker, or agent shall notify the director of a change of address within 5 days after that change. Any change in ownership of any livestock auction or market shall be reported to the director within 5 days by the licensee. Each dealer or broker shall file with the director on January 1 of each year a sworn statement of average weekly sales and a statement showing the number and kinds of livestock purchased and sold during the previous year.

(16) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of the state of Michigan.

**History:** 1937, Act 284, Imd. Eff. July 23, 1937;—Am. 1945, Act 237, Eff. Sept. 6, 1945;—CL 1948, 287.123;—Am. 1949, Act 239, Eff. Sept. 23, 1949;—Am. 1957, Act 290, Eff. Sept. 27, 1957;—Am. 2003, Act 85, Imd. Eff. July 23, 2003;—Am. 2004, Act 279, Imd. Eff. July 23, 2004;—Am. 2007, Act 81, Imd. Eff. Sept. 30, 2007.

### **287.123a Livestock auction; bond, producers' proceeds account, deposits; record of charges.**

Sec. 3a. Each dealer, broker or agent operating a livestock auction, in addition to providing a bond as required by this act, shall maintain a "producers' proceeds account". Within 7 calendar days following each livestock auction the dealer shall deposit in the producers' proceeds account funds which shall be equal to the total amount of money due the livestock sellers or consignors of livestock sold or consigned through the livestock auction. Failure to make such deposits in their entirety shall constitute a violation of this section. The director shall audit from time to time the producers' proceeds account and ascertain whether the provisions of this section are being complied with. All records of the licensed dealer shall be made available to the director for the purposes of auditing the account. The entire sale price of livestock sold through the auction less commissions, handling charges, service fees and other accepted charges shall be placed in the producers' proceeds account and shall be used to pay the seller or consignor for the livestock and for no other

purpose. A record of the commissions, handling charges, service fees and other charges shall be maintained by the licensee and shall be provided to the seller or consignor of the livestock at the completion of the sale.

**History:** Add. 1957, Act 290, Eff. Sept. 27, 1957.

#### **287.124 Dealers or brokers license; revocation, hearing, notice, review; causes for revocation.**

Sec. 4. For failure or refusal to obey the provisions of this act, the department may refuse a license or suspend or revoke the license held by such licensee. Whenever the director is satisfied of the existence of any one or more of the reasons for refusing, suspending or revoking the license provided for in this act, before refusing, suspending or revoking the license, the department shall give written notice of a hearing to be had thereon to the licensee affected. The notice shall appoint a time of hearing at the department and shall be mailed by certified or registered mail to the licensee. On the day of the hearing, the licensee may present such evidence to the director as he deems fit regarding the violations charged, and the director shall thereupon render a decision. Any licensee who feels aggrieved at the decision of the director may appeal from said decision within 10 days by writ of certiorari to the circuit court of the county where the licensee resides. The following reasons shall be construed as just cause for refusal, suspension or revocation of a license:

(a) Where the applicant or licensee has failed to pay in full for any amounts due on livestock purchased, or has violated the laws of the state or official regulations promulgated by the director or other competent authority governing the interstate or intrastate movement, shipment or transportation of animals.

(b) Where there have been false or misleading statements to the purchaser as to the health or physical condition of the animal or animals with regard to official tests, ownership, or quantity of animals or misrepresentation in connection therewith, or in the buying or receiving of animals, or receiving, selling, exchanging, soliciting, or negotiating sale, resale, exchange, transport, transfer, weighing, or shipment of animals.

(c) Where the licensee engages in buying or receiving animals, or receiving, selling, exchanging, soliciting, or negotiating the sale, resale, exchange, transport or transfer of animals affected with a communicable disease or diseases that are likely to be transmitted to other animals or human beings: Provided, That subdivision (c) of this section shall not apply to animals which have reacted to any test used for the detection of tuberculosis, and Bang's disease, when said animals are disposed of in conformity with state laws and regulations governing disposal of such animals and when such animals are killed under supervision of a United States department of agriculture research service inspector or a regularly authorized inspector of the state livestock disease control division.

(d) Where the licensee fails to practice measures of sanitation, disinfection, and inspection as required by this act, of premises or vehicles used for the stabling, yarding or transportation of animals.

(e) Where there has been a failure or refusal on the part of the licensee, upon the request of the department, to produce records of transactions in the carrying on of the business for which such license is granted.

**History:** 1937, Act 284, Imd. Eff. July 23, 1937;—CL 1948, 287.124;—Am. 1957, Act 290, Eff. Sept. 27, 1957.

#### **287.125 Dealers or brokers license; place of keeping license.**

Sec. 5. Every dealer, broker, or agent licensed under the provisions of this act and carrying on or conducting business under such license shall at all times keep in or at the place of business or in each vehicle used by such licensee for the purpose of transporting livestock a copy of such license for inspection by any representative of the department, sheriff, undersheriff, deputy sheriff, Michigan state police or any other law enforcing agency.

**History:** 1937, Act 284, Imd. Eff. July 23, 1937;—CL 1948, 287.125.

#### **287.126 Trucks, yards, pens; requirements as to cleanliness.**

Sec. 6. Each dealer, broker or agent leasing, renting, operating or owning any livestock yards, pens, premises or vehicles in which animals are quartered, fed, held or transported shall keep such yards, premises, or vehicles properly cleaned and disinfected as prescribed by the department.

**History:** 1937, Act 284, Imd. Eff. July 23, 1937;—CL 1948, 287.126.

#### **287.127 Inspection of animals; test or treatment, fee; false statements as to physical condition.**

Sec. 7. For the purpose of preventing the spread of infection or communicable diseases of livestock, all animals sold, transferred or exchanged from any yards or premises by any dealer, broker, or agent as designated in this act shall be inspected by a representative of the department. The department shall prescribe the proper tests or treatment of any such animal sold when such tests or treatment are deemed necessary to

prevent the spread of a communicable disease of livestock. Such test or treatment shall be made by a veterinarian approved by the department, and the fees for such tests or treatment shall be paid by the dealer, broker or agent.

(a) No dealer, broker, agent or owner of any animal shall sell or offer for sale any such animal under an assumed or fictitious name or make any false or misleading statements as to the identity or the physical condition of said animal with regard to any test which is supposed to establish the health status of any animal offered for sale or sold.

**History:** 1937, Act 284, Imd. Eff. July 23, 1937;—CL 1948, 287.127.

#### **287.128 Records of licensee; inspection.**

Sec. 8. The department or any of the duly authorized agents shall have authority to inspect the records of any licensee at any time to determine the origin and destination of any livestock handled by the licensee and to determine if any provisions of this act or the rules and regulations promulgated hereunder have been violated.

**History:** 1937, Act 284, Imd. Eff. July 23, 1937;—CL 1948, 287.128.

#### **287.129 Rules and regulations; adoption, promulgation, enforcement.**

Sec. 9. The department is authorized to formulate, adopt, promulgate and enforce rules and regulations for the purpose of carrying into effect the provisions of this act.

**History:** 1937, Act 284, Imd. Eff. July 23, 1937;—CL 1948, 287.129.

**Administrative rules:** R 285.119.1 of the Michigan Administrative Code.

#### **287.131 Violation of act; penalty.**

Sec. 11. Whoever violates or refuses to comply with any of the provisions of this act shall, upon conviction, be sentenced to pay a fine of not less than 25 dollars nor more than 100 dollars and costs of prosecution, and in default of payment of fine and costs, shall be sentenced to imprisonment for not less than 10 nor more than 30 days, and for each subsequent violation a fine shall be imposed of not less than 100 dollars nor more than 500 dollars, or imprisonment for not more than 6 months, or both, and the costs of prosecution.

**History:** 1937, Act 284, Imd. Eff. July 23, 1937;—CL 1948, 287.131.